



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,365	07/30/2001	Eugene T. Michal	ACS 55933	1073

7590 07/12/2006

Cameron Kerrigan  
SQUIRE, SANDERS & DEMPSEY L.L.P  
One Maritime Plaza  
Suite 300  
San Francisco, CA 94111-3492

EXAMINER
----------

MICHENER, JENNIFER KOLB

ART UNIT	PAPER NUMBER
----------	--------------

1762

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

CV

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/918,365	MICHAL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jennifer K. Michener	1762	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 19-33 and 35-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

*The following new 112 rejections are made as necessitated by amendment:*

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-18 and 34 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for immobilization via amine and aldehyde groups or PEG, etc, does not reasonably provide enablement for all "chemical agents". The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to practice or use the invention commensurate in scope with these claims. One of ordinary skill in the art is not enabled to practice or use the invention for all chemical agents.
3. Claims 1-18 and 34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There does not appear to be basis in the originally filed specification for the broad genus of "chemical agents" for use in immobilization (see also above).

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 3, 4, 7, 10-11, 13, 15-17, and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang et al. (6,358,557).

Examiner maintains the rejection of the previous office action.

Regarding the newly-added limitation requiring immobilizing “by reaction of the functional groups and the anti-thrombogenic material via a chemical agent”, Examiner notes, as outlined in the previous office action, that Wang immobilizes the anti-thrombogenic agent via functional groups of the polymerized base coat to the pendant amine group of his heparin compound. These functional groups act as the required “chemical agent” in the same way that Applicant’s specification outlines.

Furthermore, since “direct immobilization” is defined by Applicant as attachment of the anti-thrombogenic agent directly to a support member though at least one intermediate component (p. 5 of Specification and throughout), “direct” immobilization allows for one or more intermediate chemicals. In this case, Wang teaches an alternative embodiment in which chemical tie coats on top of the basecoat may be used to serve as the heparin reservoir (col. 11, lines 35). This tie coat is a “chemical agent” in the same way as PEG, as used in Applicant’s specification for the same purpose, is.

Covalent attachment is a “reaction”.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 2, 8-9, 12, 14, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al.

Examiner maintains the rejection of the previous office action.

6. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang in view of Fan et al. (5,620,738).

Examiner maintains the rejection of the previous office action.

***Response to Arguments***

7. Applicant's arguments filed 4/26/2006 have been fully considered but they are not persuasive.

Arguments have been addressed, above, in the body of the rejections.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer K. Michener whose telephone number is (571) 272-1424. The examiner can normally be reached on Monday through Wednesday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy H. Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1762

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jennifer K. Michener  
Primary Examiner  
Art Unit 1762  
July 5, 2006

jkm